

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re: TA-VON BECKER,

**Case No.: 20-33765-KLP
Chapter 13**

Debtor.

ZACHARY BECKER,

Movant,

v.

TA-VON BECKER,

and

SUZANNE E. WADE, Chapter 13 Trustee

Respondents.

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

COMES NOW Zachary Becker ("**Mr. Becker**"), by counsel, spouse of Ta-Von Becker (the "**Debtor**"), pursuant to Bankruptcy Code § 362(b)(2) & (d)(1) and Federal Rules of Bankruptcy Procedure 9014 and 4001 and files this motion for relief from the automatic stay (the "**Motion**") to allow Mr. Becker to continue a state court proceeding. In support of this Motion, Mr. Becker states as follow:

Jurisdiction and Venue

1. This matter is a core proceeding pursuant to 28 U.S.C. § 157, and the Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334.

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2. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

3. On September 9, 2020, the Debtor filed a voluntary petition seeking relief under Chapter 13 of the Bankruptcy Code. Property settlement obligations encompassed by section 523(a)(15), which are nondischargeable under chapters 7 and 11, are dischargeable under Chapter 13. *See* 11 U.S.C. §§ 523(a)(15), & 1328(a).

4. Suzanne E. Wade was appointed Chapter 13 Trustee and continues to serve in that capacity.

5. Debtor was legally married at the time this case was filed. However, the marriage is unsupportable, and the parties have irreconcilable differences; therefore, Mr. Becker has filed, an action to dissolve the marriage in state court. On November 4, 2020, Mr. Becker filed a Complaint in the Circuit Court of the County of Chesterfield seeking divorce from the Debtor. *Becker v. Becker*, CL20-3412 (Va. Cir. Ct.) (the "**Divorce Proceedings**").

6. The Divorce Proceedings involve the dissolution of the marriage of Mr. Becker and the Debtor, division of property and debts, and determination of support.

Relief Requested

7. Mr. Becker requests that the Automatic Stay pursuant to 11 U.S.C. § 362 be modified for cause under 11 U.S.C. § 362(d)(1) to allow Mr. Becker to proceed with the Divorce Proceedings and allow the state court to enter any orders, judgments or decrees necessary or proper to that end, including the dissolution of the marriage, division of property and debts, and determination of support, if appropriate, between the Debtor and Mr. Becker.

Applicable Law

8. Bankruptcy Code § 362(b)(2)(iv) excepts from the automatic stay certain acts for dissolution of the marriage, except to the extent that such proceeding seeks to determine the division of property that is property of the estate.

9. To the extent not excepted from the automatic stay, Bankruptcy Code § 362(d)(1) permits a court to grant relief for cause.

10. Bankruptcy Code § 362(d)(1) provides:

(d) On request of a party in interest and after notice and a hearing, the court shall grant relief from the stay provided under subsection (a) of this section, such as by terminating, annulling, modifying, or conditioning such stay—

(1) for cause, including the lack of adequate protection of an interest in property of such party in interest;

11 U.S.C. § 362(d)(1).

11. The *Bankruptcy Code* does not define "cause." Accordingly, the determination of what constitutes "cause" to modify the automatic stay must be made on a case-by-case basis. *In re Robbins*, 964 F.2d 342, 345 (4th Cir. 1992). The legislative history of § 362 explains that "cause may be established by a *single factor* such as 'a desire to permit an action to proceed...in another tribunal.'" H.R. Rep. 95-595, 95th Cong., 1st Sess., 343-344 (1977) (emphasis added).

12. Neither the Debtor's estate, nor any other party in interest, will be prejudiced or harmed by a modification of the stay imposed by § 362 of the Bankruptcy Code to allow Mr. Becker to proceed with the Divorce Proceedings.

13. In addition, the Trustee has consented to the relief requested.

14. Mr. Becker respectfully requests that the Court treat this motion as written memorandum of points and authorities or waive any requirement that this motion be accompanied by a written memorandum as described in Rule 9013-1(G) of the Local Rules of

Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Eastern District of Virginia.

WHEREFORE, Mr. Becker requests that this Court enter an Order granting him relief from the automatic stay to proceed with the prosecution of an action in State Court to exercise all permissible rights and remedies for dissolution of the marriage, division of property and debts, and determination of support, as appropriate. Mr. Becker further requests that the fourteen (14) day stay imposed pursuant to the provisions of Bankruptcy Rule 4001(a)(3) be waived, and for such other and further relief as the Court deems just and proper.

Respectfully submitted, this 14th day of June, 2021.

ZACHARY BECKER

/s/ Klementina V. Pavlova

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of June, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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And I hereby certify that I have mailed the document by U.S. mail to all parties on the attached list.

/s/ Klementina V. Pavlova

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